



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Meloy Channel, U.S. Coast Guard Base Miami Beach, Florida; Restricted Area.

AGENCY: United States Army Corps of Engineers, Department of Defense

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending the regulations at 33 CFR Part 334 to establish a new restricted area in the waters surrounding the U.S. Coast Guard Base Miami Beach, Florida (Base Miami Beach). Base Miami Beach is composed of multiple U.S. Coast Guard (USCG) units, both land and waterside. The facility has one of the highest operational tempos in the USCG for both routine and emergency operations. The amendment to the regulations is necessary to enhance the USCG's ability to secure their shoreline to counter postulated threats against their personnel, equipment, cutters, and facilities by providing stand-off corridors encompassing the waters immediately contiguous to Base Miami Beach. The amendment will also serve to protect the general public from injury or property damage during routine and emergency USCG operations and provide an explosive safety arc buffer during periodic transfer of ammunitions between units, including cutters.

DATES: Effective date: [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the regulation at 33 CFR Part 334 by establishing a new restricted area in the waters near Meloy Channel, Government Cut Channel, and Miami Main Channel surrounding Base Miami Beach. The amendment to the regulation is described below.

The proposed rule was published in the May 3, 2012, issue of the Federal Register (77 FR 26229), and its regulations.gov docket number is COE-2012-0009. No comments were received in response to the proposed rule.

The amendment to this regulation will allow the Commander, U.S. Coast Guard Base Miami Beach to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby increasing the ability to protect the facilities and personnel at Base Miami Beach from potential threats. The amendment will also provide a measure of protection to the public by reducing the potential for injury or property damage during routine and emergency USCG operations at the facilities and by providing a permanent explosive safety arc during the transfer of ammunition between cutters.

Procedural Requirements

a. Review Under Executive Order 12866. This regulation is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act. The regulation has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps determined that this regulation would have practically no economic impact on the public nor would it result in any anticipated navigational hazard or interference with existing waterway traffic. This regulation will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act. This regulation will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment has been prepared. It may be reviewed at the district office listed at the end of the FOR FURTHER INFORMATION CONTACT section, above.

d. Unfunded Mandates Act. This regulation does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104-4, 109 Stat. 48, 2 U.S.C. 1501 et seq.). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this regulation.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps is amending 33 CFR Part 334 as follows:

PART 334 – DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.605 to read as follows:

§ 334.605 Meloy Channel, U.S. Coast Guard Base Miami Beach, Florida; restricted area.

(a) The area. The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude 25°46'20.07"N, longitude 080°08'50.94"W; thence to latitude 25°46'22.69"N, longitude 080°08'44.01"W; thence to latitude 25°46'22.02"N, longitude 080°08'42.14"W; thence to latitude 25°46'12.23"N, longitude 080°08'35.33"W; thence to latitude 25°46'09.13"N, longitude 080°08'40.74"W; thence to latitude 25°46'11.63"N, longitude 080°08'43.36"W; thence to latitude 25°46'17.22"N, longitude 080°08'47.17"W; thence to latitude 25°46'17.15"N, longitude 080°08'47.62"W; thence to latitude 25°46'17.63"N, longitude 080°08'49.33"W; thence to latitude 25°46'18.91"N, longitude 080°08'50.24"W; thence proceed directly to a point on the shoreline at latitude 25°46'18.76"N, longitude 080°08'50.71"W thence following the mean high water line to the point of beginning.

(b) The regulations. (1) The restricted area described in paragraph (a) of this section is only open to U.S. Government vessels. U.S. Government vessels include, but

are not limited to, U.S. Coast Guard and Coast Guard Auxiliary vessels, Department of Defense vessels, state and local law enforcement and emergency services vessels, and vessels under contract with the U.S. Government. Warning signs notifying individuals of the restricted area boundary and prohibiting all unauthorized entry into the area will be posted along the property boundary and, as appropriate, on the piers of the MacArthur Causeway Bridge adjacent to the restricted area.

(2) All persons, vessels, and other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the restricted area described in paragraph (a) of this section without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(3) Fishing, trawling, net-fishing, and other aquatic activities are prohibited in the restricted area without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(4) The restrictions described in paragraph (b) of this section are in effect 24 hours a day, 7 days a week.

(c) Enforcement. The regulations in this section shall be enforced by the Base Commander, U.S. Coast Guard Base Miami Beach and/or such persons or agencies as he/she may designate.

DATE July 16, 2012

APPROVED _____

Richard C. Lockwood

Chief, Operations and Regulatory

Directorate of Civil Works

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